



# Office Action Summary

Application No.  
**09/084,641**

Applicant(s)  
**Breed et al.**

Examiner  
**Peter English**

Group Art Unit  
**3611**



☒ Responsive to communication(s) filed on October 16 and November 9, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 1-18 and 21 is/are allowed.

☒ Claim(s) 19 and 20 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Oath/Declaration***

1. The declaration is defective because prior application 09/047,704 is not listed under the section for priority under 35 USC 120, so that the declaration lacks the “duty to disclose” statement required in CIP applications. Further, applications 08/905,876, 08/505,036 and 08/040,978 are listed in the priority section, even though these applications are not being relied upon for priority under 35 USC 120.

The declaration is also defective because it fails to accurately identify the specification to which it is directed. Specifically, the title given in the declaration is incorrect. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

### ***Claim Rejections - 35 USC § 112***

2. Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 19, at line 2, the term “said electronic signals” lacks proper antecedent basis. The examiner suggests: at line 2, delete “electronic”.

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***Terminal Disclaimer***

3. The terminal disclaimer filed on October 16, 1998 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on application number 08/640,068 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Response to Amendment***

4. The declaration filed on November 9, 1998 under 37 CFR 1.131 is sufficient to overcome the Corrado et al. reference.

***Allowable Subject Matter***

5. Claims 1-18 and 21 are allowed.

6. Claims 19 and 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

7. Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities

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remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

*Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter English whose telephone number is (703) 308-1377. The examiner can normally be reached on Monday-Thursday from 7:00 to 5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson, can be reached on (703) 308-0885.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:  
Assistant Commissioner for Patents  
Washington, DC 20231

or faxed to:  
(703) 305-7687 (for informal or draft communications, please clearly label  
"PROPOSED" or "DRAFT")

Hand delivered responses should be brought to the Group receptionist on the 2nd Floor of Crystal Park 2, 2121 Crystal Drive, Arlington, Virginia.

  
PETER C. ENGLISH  
PRIMARY EXAMINER 12/7/98

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December 7, 1998